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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/574,783	05/19/2000	Frank Bothe	P/2107-135	1303

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EXAMINER

WOOD, KIMBERLY T

ART UNIT PAPER NUMBER

3632

DATE MAILED: 04/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/574,783

Applicant(s)

BOTHE, FRANK

Examiner

Kimberly T. Wood

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 12-23 and 25-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-31 is/are rejected.
- 7) ☒ Claim(s) 22,23 and 31 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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This is the third office action for serial number 09/574,783 in response to Amendment filed on December 19, 2003.

***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12-18, 21, 25-27 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Scofield 1,897,400. Scofield discloses a connecting arrangement comprising a first (1) and second support (6) having fastening webs (2 and 7), articulation connection (9), angle adjustment device comprising a turnbuckle having an threaded adjustment sleeve (17; page 1, lines 55ff), nuts (18), and threaded bolts (15 and 16), first support element (4), second support element (21, 23, and 26). The first and second supports are of the same design (design by definition is "to have as a purpose" or "a plan or protocol for carrying out or accomplishing something"). The first and second supports are for the purpose of supporting and connecting one thing to another.

Claims 12-14, 16-18, and 25-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Sanderson 5,282,410. Sanderson discloses a connecting arrangement comprising a first (103) and second support (114), articulation connection (at the

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end opposite 116, close to 104), angle adjustment device comprising a turnbuckle having an threaded adjustment sleeve (122), nuts (see figure 4), and threaded bolts, first (102) and second support elements (94).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 19, 20, 28, 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scofield 1,897,400 in view of Ovens (5,154,384). Scofield discloses all of the limitations of the claimed invention except for the lock nuts on each of the bolts. Ovens teaches that it is known to have a turnbuckle (figure 1) having a threaded sleeve (14 and 16, and 12) lock nuts (27 and 25) on each of the bolts (24 and 26). It would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Scofield to have included the

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lock nuts to each of the bolts at taught by Ovens for the purpose of facilitating adjustment of the angle of the supports.

Claims 19 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanderson 5,282,410 in view of Ovens (5,154,384). Sanderson discloses all of the limitations of the claimed invention except for the lock nuts on each of the bolts. Ovens teaches that it is known to have a turnbuckle (figure 1) having a threaded sleeve (14 and 16, and 12) lock nuts (27 and 25) on each of the bolts (24 and 26). It would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Sanderson to have included the lock nuts to each of the bolts at taught by Ovens for the purpose of facilitating adjustment of the angle of the supports.

#### ***Response to Arguments***

Applicant's arguments filed December 19, 2003 have been fully considered but they are not persuasive.

In response to applicant's arguments, the recitation of the loudspeaker has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for

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completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., loudspeaker ) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's argument that *Scofield*, *Owens* and *Sanderson* are nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the references are in the filed of the applicant's endeavor, which is to provide a connecting arrangement for angle adjustable connection. *Scofield* discloses a connecting arrangement comprising a first (1) and second

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support (6) having fastening webs (2 and 7), articulation connection (9), angle adjustment device comprising a turnbuckle having an threaded adjustment sleeve (17; page 1, lines 55ff), nuts (18), and threaded bolts (15 and 16), first support element (4), second support element (21, 23, and 26). The first and second supports are of the same design (design by definition is "to have as a purpose" or "a plan or protocol for carrying out or accomplishing something"). The first and second supports are for the purpose of supporting and connecting one thing to another. Sanderson discloses a connecting arrangement comprising a first (103) and second support (114), articulation connection (at the end opposite 116, close to 104), angle adjustment device comprising a turnbuckle having an threaded adjustment sleeve (122), nuts (see figure 4), and threaded bolts, first (102) and second support elements (94). Both Scofield and Sanderson disclose of connecting arrangements using turnbuckles for supporting and connecting structures in various angles relative to one another. Owens provides a reference that discloses a turnbuckle that will facilitate the angle adjustment of the connecting arrangement, which is reasonably pertinent to the particular problem with which the applicant was concerned. Owens discloses a turnbuckle (figure 1) having a threaded

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sleeve (14 and 16, and 12) lock nuts (27 and 25) on each of the bolts (24 and 26).

***Allowable Subject Matter***

Claims 22, 23 and 31 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance:

In regards to claims 22 and 31, the prior art does not disclose supports each having a cross-section that is generally U-shaped along the direction parallel to the axis of the rotation between the supports, the U-shaped supports have adjacent ends and have corresponding side webs of the U-cross-section and ends of the side webs overlap at the ends thereof; an articulation bolt extending through the overlapping side ends for connecting the supports for articulation, and the bolt extending along the pivot axis.

In regards to claim 23, the prior art does not disclose each support element for the enclosure also is U-shaped, including a bottom, top and joining web, the bottom and top webs holding the enclosure between them, the respective



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support for the support element being attached at the support element, each of the support elements including a connection for connecting the enclosure and for enabling rotation of the enclosure with respect to the webs of the respective support element around an axis extending through the webs of the support element enabling further adjustment of the orientation of the enclosures.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

#### **Conclusion**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

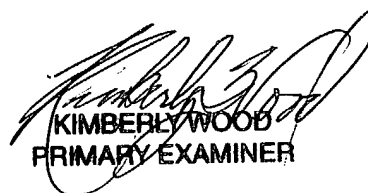
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly Wood whose telephone number is (703) 308-0539. The examiner can normally be reached on Monday-Thursday from 7:30 AM to 5:00 PM. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2168. The fax number for an Official Amendment or Response is (703) 872-9326. The fax number for an Official After Final Amendment or Response is (703) 872-9327.

Kimberly Wood  
Primary Examiner  
April 19, 2004



KIMBERLY WOOD  
PRIMARY EXAMINER